

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF BOISE BIBLE)	APPEAL NO. 06-A-2011
HALL PROPERTIES from the decision of the Board of)	FINAL DECISION
Equalization of Ada County for tax year 2006.)	AND ORDER

RELIGIOUS EXEMPTION APPEAL

THIS MATTER came on for hearing September 12, 2006, in Boise, Idaho, before Board Member Lyle R. Cobbs. Board Member David E. Kinghorn participated in this decision. Boise Bible Hall Board Member Russ Poe and Treasurer Lloyd Lewis Campbell appeared for Appellant. Deputy Prosecutor Lorna Jorgensen appeared for Respondent Ada County. This appeal is taken from a decision of the Ada County Board of Equalization denying an exemption claim for taxing purposes of property described as Parcel No. R0919000750.

The issue on appeal is whether the subject property qualifies for an exemption from property taxes pursuant to Idaho Code § 63-602B, the religious exemption.

The decision of the Ada County Board of Equalization is reversed.

FINDINGS OF FACT

The subject parcel had a total 2006 assessed value of \$521,300. Appellant requests a full exemption under Idaho Code § 63-602B.

The subject parcel represents the full (3.69 acres) campus-like real property of Collister Community Church, a.k.a Appellant Boise Bible Hall Properties, Inc. The subject parcel was created in 2005 from the combination of five adjacent parcels. This combination -- "at some expense and inconvenience to the Church" -- was required through the city planning and zoning process associated with Appellant's recent facility expansion. The Church has been present at the same location for over 50 years. There are multiple buildings on the new combined property. The County exemption denial focuses on the use of one particular building called the caretakers house.

The ownership element associated with the religious exemption is not at issue. The qualifying use of the other buildings and structures situated on subject parcel is not questioned. Only the use of the caretakers house is at issue. The County found this use outside the specified uses within the religious exemption statute. Further any exemption grant on the parcel was understood to be an “all or nothing” proposition. Hence where the County found part of the subject parcel used for a non-recognized or non-religious purpose, exemption was denied on the entire parcel.

A map, pictures and testimony demonstrate the integrated nature of the caretakers house, both in visual design and functionality, with the balance of the church property. Demolishing the house was considered and rejected since other church facilities could not expand in that direction. For a short time the house was used for Sunday School classes. Since late 2005 the house has been reconfigured into the current caretakers house. P&Z requirements changed access to the house and other church structures which now accommodates fire trucks and other needs. The caretakers house no longer has its own direct street access or a private yard.

A young children’s play area, church parking, and a lot line almost touch the house’s walls. The small remaining area is landscaped and bisected with a church walkway. The house wall sits about 15 feet from the old church sanctuary building. Appellant reports the house likely could never be sold, or rented, due in large part to the access issues. The house was described as being “landlocked.”

During early design and permitting considerations, Appellant decided to put the house to a caretaker use. Appellant reports being told by the Chief Deputy Assessor that if the house was rented the whole property could be assessed. The current house occupants (husband and wife) both serve as church property caretakers. Housing is provided rent free. Additionally one

occupant is a senior spiritual leader within the fellowship, however he is not a designated or regular preaching pastor on Sundays. He does lead monthly communion services, pastors a weekly Bible study in the caretakers house, preaches for the church in retirement homes, and serves as a Church Board Member.

The caretakers are additionally responsible for a street visible reader board, security and lockups throughout the week, and package delivery for the church which is regularly directed to the caretakers house address. They also perform various building and grounds maintenance including trash removal.

Appellant reports the Board of Directors control all property use to insure the following purpose is accomplished, "to inform and educate people as to the salvation of our eternal souls through belief in Jesus Christ"

The basic factual information connected with this exemption claim is not disputed. The County emphasizes that the caretaker house is not used as a parsonage, nor is the house used as a recreational hall, and the house is not used directly or exclusively for public worship. It should be added, Respondent does not see where any combination of those three uses would apply. The County focused on the obvious residential nature of the house and looked primarily to determine if it was a parsonage and occupied as such, noting the High Court standard mandating strict construction of exemption provisions.

Respondent contends the religious exemption does not allow for an assessment allocation between taxable and nontaxable uses present on the same parcel. Referencing the charitable exemption in Idaho Code § 63-602C to illustrate or support the legal argument.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to

support a determination of fair market value or exempt status. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

In Idaho statutory exemptions from property tax can have ownership and use elements. The religious exemption, printed below, has both. In this particular case, exempt status depends on the proper characterization of the caretaker house use.

§ 63-602B. Property exempt from taxation -- Religious corporations or societies

The following property is exempt from taxation: property belonging to any religious corporation or society of this state, used exclusively for and in connection with public worship, and any parsonage belonging to such corporation or society and occupied as such, and any recreational hall belonging to and used in connection with the activities of such corporation or society; and this exemption shall extend to property owned by any religious corporation or society which is used for any combination of religious worship, educational purposes and recreational activities, not designed for profit.

The County held the residential building, used as a residence, was not properly characterized as a parsonage use. Some argument can be made on this point where a recognized spiritual leader lives in the house rent free in exchange for church responsibilities. The record suggests the present house occupants roughly split their church service between property functions and pastoring (people-centered) duties. Suffice it to say a parsonage occupant is commonly responsible for a certain amount of church maintenance or security in addition to matters of the heart and soul.

We note the house use derives no profit for the church. It also appears likely the house could not be split off from the subject parcel and sold. No material private benefit is suggested. Functionally, any alternate commercial use by the Church is not feasible. The presence and use of the house is intentionally designed to complement the operation of the church campus. Like

with church office space, hallways and walkways, and parking and restrooms, the caretaker house use is geared toward supporting (complimentary of) the ultimate worship purpose. The statute is likewise silent on parking, landscaping, storage, personal property and cleaning closets. Yet no one has suggested these improvements were intended to be taxed by the State Legislature. At a certain point a property and its use is directly tied and fundamentally incorporated into a greater or primary use. Here the house use clearly advances the life and well being of the fellowship and thus in turn benefits the community. The house is not used, nor likely to be used, for any pecuniary purpose.

For the reasons expressed above the Board will reverse the decision of the Ada County Board of Equalization concerning subject parcel for the 2006 tax year. Subject ownership and use does qualify for a full exemption.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Ada County Board of Equalization concerning the subject parcel be, and the same hereby is, reversed fully exempting subject parcel for the 2006 tax year.

IT IS FURTHER ORDERED that any taxes which have been paid in excess of those determined to have been due be refunded or applied against other *ad valorem* taxes due from Appellant.

DATED this 5th day of March, 2007.